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EXAMINER

CHIANG, JACK

ART UNIT PAPER NUMBER

2642

DATE MAILED: 07/30/2004

19

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/813103

Applicant(s)

Bodley et al.

Examiner

J. Chiang

Group Art Unit

2642

#19

--The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address--

## Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 4-19-04
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-12, 18-20, 25-26 is/are pending in the application.
- Of the above claim(s) 13-17, 21-24, is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-12, 18-20, 25-26 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

## **CLAIMS**

### **112 Rejection**

1. Claim 18 recites the limitation "said pin" in second line from the bottom. There is insufficient antecedent basis for this limitation in the claim.

(note: the term "element" has been used to replace the term "pin")

### **Art Rejection**

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 12, 18-20, 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Pralus et al. (US 6055312).

Regarding claim 12, Pralus shows a headset communication unit comprising:

A housing (10) having a generally planar side (i.e. keypad side);

A microphone arm (70) pivotally connected to the housing (10) by a hinge link (38);

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The arm (70) can be moved between a first position (arm 70 with solid line in fig. 1a) in which it lies up against the planar side of housing (10, fig. 1a), a second position (arm 70 with broken line) in which it extends perpendicularly (note: ball joint 38 allows rotation in any direction, col. 5, lines 66-67, col. 6, lines 1-2, 16-17) away from the housing (10, fig. 1a);

A communications link circuit (see 24) for connecting the headset and a remote device;

The circuit for detecting a ringing state (in 10) and by moving the arm (70) to the second position causing the device to go to an off-hook state (col. 6, lines 12-15).

Regarding claim 18, Pralus shows a headset communication unit comprising:

A housing (10);

A microphone arm (70) pivotally connected to the housing (10) by a hinge link (38);

The arm (70) can be moved between a first position (arm 70 with solid line in fig. 1a) in which it lies up against the housing (10, fig. 1a), a second position (arm 70 with broken line) in which it extends away from the housing (10, fig. 1a);

The hinge link (38) including at least one recess (recess for the ball, or upper part of 30, note: 38 and 30 use similar rotational mechanism),

The arm (70) including at least one slidable element (ball, or low part of 30);

A bias element (34) providing bias force against the element to maintain the element within the recess (see fig. 3);

The linkage from the element to a sensor responsive to element movement to detect the position of the arm (70, col. 6, lines 12-15)

Regarding claims 19-20, Pralus shows:

The recess or groove or stem having sloping sidewalls (for the ball, or upper 30);

The element or land (ball, or lower 30);

The stem and element are keyed (31) to prevent rotation while still permitting axial movement of the element in response to the bias (34).

Regarding claim 25, Pralus shows a communication unit comprising:

A housing (10);

At least one transducer (20);

A microphone arm (70);

Means (14) for securing the unit to the head of a user (fig. 6b);

The arm (70) is pivotally connected to the housing (10) by a hinge link (38) generally at the outer periphery of the housing;

The arm (70) can be moved between a first position (arm 70 with solid line) in which it lies up against the housing (10, fig. 1a), a second position (arm 70 with broken line) in which it extends away from the housing (10, fig. 1a);

The arm (70) is of a length which in the main is less than or of the same order as the greatest extend of the housing (10).

4. Claims 1, 7, 26 is rejected under 35 U.S.C. 102(b) as being anticipated by Mertturk (DE 29808425 U1).

Regarding claim 1, Mertturk shows headset comprising:

A housing (1) having a outer peripheral edge which defines a boundary of the housing (1);

At least one transducer (2);

A microphone arm (5-7);

An earhook (area of 9) for securing the unit to the head of a user (fig. 1);

The earhook (area of 9) extending from the housing (1);

The arm (5-7) is pivotally connected to the housing (1) by a hinge link (7');

The arm (5-7) can be moved between a first folded position (fig. 2) in which it lies up against the housing (1), and a second open position (fig. 1) in which it extends away from the housing (1);

The arm (5-7) is of a length such that, when in the folded position (fig. 2) does not extend generally beyond the outer periphery of the housing (1, see fig. 2), so that when the arm (5-7) is in the folded position (fig. 2), a compact unit is formed with the microphone (5-7) being substantially within the peripheral boundary (fig. 2).

Regarding claim 7, Mertturk shows an antenna (8).

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Regarding claim 26, Mertturk shows headset comprising:

A housing (1) having a outer peripheral edge;

At least one transducer (2);

A microphone arm (5-7);

An earhook (area of 9) for securing the unit to the head of a user (fig. 1);

The earhook (area of 9) extending from the housing (1);

The arm (5-7) is connected to the housing (1) by a hinge link (7');

The arm (5-7) can be moved between a first folded position (fig. 2) in which it lies up against the housing (1), and a second open position (fig. 1) in which it extends away from the housing (1);

The arm (5-7) is of a length such that, when in the folded position (fig. 2) does not extend substantially beyond the outer periphery of the housing (1, see fig. 2), so that when the arm (5-7) is in the folded position (fig. 2), a compact unit is formed.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mertturk in view of Pralus et al. or Beutler et al. (US 4897873).

Regarding claim 2, Mertturk shows a pivotal microphone arm (5-7).

Mertturk differs from the claimed invention in that it does not explicitly mention that the hinge link (7') is rotated orthogonally.

However, Pralus teaches providing a hinge link (38) which can be rotated in more than one direction. Beutler also teaches providing a hinge link (fig. 3) which rotates orthogonally with respect to the face of the device.

Hence, the concept of providing a hinge is well taught by Mertturk, although there is no detail about the hinge, it would have been obvious for one of ordinary skill in the art to adapt the Pralus' hinge or Beutler's hinge in Mertturk, such that the microphone arm can be rotated in more than one directions or can be rotated orthogonally with respect to the device, as long as the basic concept of providing the pivotal microphone arm is substantially unchanged.

Regarding claims 3-6, the combination of Mertturk and Beutler shows:

The microphone arm (5-7 in Mertturk; 304 in Beutler);

Hinge pins (310, 316 in Beutler);

The hinge parts (306, 318, 112, 114 in Beutler);

A contact (308, 302 in Beutler) which is activated by the movement of the microphone arm;

A securing device (314 in Beutler);

Means of a release arrangement (312 in Beutler);

The microphone (370);

The electrical connection thru the hinge link (see wires connecting to 302, 370).



7. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mertturk in view of Ito et al. (US 6052567).

Regarding claims 8-9, Mertturk shows the antenna (8).

Mertturk differs from the claimed invention in that it does not have details about the antenna, such as a coating in the housing, or thru the hinge link.

However, Ito teaches providing an antenna (i.e. 33) which is thru the hinge link or pin on the microphone arm (23).

Hence, the concept of providing an antenna is well taught by Mertturk, it would have been obvious for one of ordinary skill in the art to provide the antenna on the housing as it is shown by Mertturk, or to provide the antenna with the microphone arm as it is taught by Ito. This simply can be considered as a variation of each other, because the basic concept of providing the antenna is substantially unchanged.

8. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mertturk in view of Burris et al. (US 5708724).

Regarding claims 10-11, Mertturk shows the ear hook (area of 9) and the housing (1).

Mertturk differs from the claimed invention in that it does not show a recess for a removable ear hook, and the left and right ear mounting.

However, Burris teaches providing a housing having a recess (32) for a removable ear hook (12), and the left and right ear mounting (figs. 1, 4).

Hence, it would have been obvious for one of ordinary skill in the art to modify Mertturk with the ear hook as taught by Burris, such that the headset can be mounted on the left or right ear of the user (col. 2, lines 38-42 in Burris).

9. Claims 13-16 and 21-24 had been withdrawn by the applicant.

**NOTE:** Claim 17 is belong to a non-elected group or subject matter, and the restriction had been made final in office action dated on 1-26-04. Although this claim has been re-instated, and has been amended to have a different dependence, the subject matter is still belong to a non-elected group, therefore, claim 17 had not been withdrawn from further consideration and not been treated in this office action.

### **ARGUMENT**

10. In response to the remarks (pages 8-11), Makkonen, Magnasco and Chang have been withdrawn in view of the amendment. Therefore, no further discussion is made regarding the above references. Argument is answered in the rejections above, see comments above.

11. Applicant's arguments with respect to claims 1-12, 18-20, 25-26 have been considered but are moot in view of the new ground(s) of rejection.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

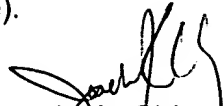
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack Chiang whose telephone number is 703-305-4728. The examiner can normally be reached on Mon.-Fri. from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on 703-305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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